

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1894 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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HIRENKUMAR P BHATT

Versus

STATE OF GUJARAT

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Appearance:

1. Special Civil Application No. 1894 of 1997  
MR JV JAPEE for Petitioner  
Mr.Mukesh A.Patel. APP for respondents n

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CORAM : MR.JUSTICE S.D.SHAH

Date of decision: 17/06/97

ORAL JUDGEMENT

1. Rule. With the consent of both the advocates appearing for parties matter is finally heard and decided today.

2. The petitioner happens to be the son of an

Assistant Teacher in Secondary School and his father expired while in service. There was no one in the family who was earning and the father was the sole individual who was earning and the entire family was dependent. The petitioner, therefore, applied to the respondents for being appointed on the post which was vacant and which could be offered to the petitioner on compassionate ground in Aglod Madhyamik Shala, Aglod, Tal.Vijapur, Dist.Mehsana. The petitioner was having qualification of SSC and thereafter passed 3rd BA in June, 1994. He was therefore eligible for being appointed to the post of Clerk.

3. The respondent No.4-School offered him the post of peon in the school based on the Government Resolution by misinterpreting the resolution. The petitioner was qualified for being appointed to the post of Clerk, while the petitioner was offered the post of Peon. It is no doubt that the purpose of compassionate appointment is to extend the helping hand to the dependents of the deceased but consistent with the Government Resolution and its underlying policy, it is not a charity which the Government is extending to the dependents of the deceased employee. If there is a vacant post for which the dependent of the deceased employee is entitled to be appointed, there is no earthly reason why such appointment be denied to the dependent. In the present case it appears that the petitioner was offered appointment of peon while he was in fact eligible for being appointed on the post of Clerk. Respondents treated the exercise of its power as an exercise of charity. By the passage of time, it is by now well established and it is also accepted by the Apex Court that with a view to helping the dependents of the deceased employee appointment on compassionate grounds to one of them should be offered so that ultimately the family does not become one which has no succour and one which has no one to earn livelihood. The very object of such compassionate appointment is to provide appointment to the available post for which the dependent is qualified and thereby to avoid hardship that may fall upon the dependents of the family of such deceased employee. Accordingly, this court has in a group of petitions, being SCA No.5365, 5515 and 6975/92 explained and interpreted the meaning of the Govt.Resolution in its proper perspective in its judgment and order, dated 4.12.1992. Following said judgment present petitioner is entitled to be appointed to the post clerk and the respondents are directed to offer him appointment on the post of clerk in Aglod Madhyamik Shala, Tal.Vijapur, Dist.Mehsana with effect from June 16, 1997. Rule is

made absolute accordingly. No costs.

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